THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24456 OF 2005

DATED:16.11.2005

Between:

Syed Faheemullah Hussaini

…Petitioner

And

The Commissioner, Municipal Corporation of Hyderabad

Office at Tank Bund, Hyderabad and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24456 OF 2005

ORDER:

The petitioner herein is son of third respondent. The property bearing premises No.5-1-575, Troop Bazar, Hyderabad, was originally gifted by third respondent in favour of the petitioner under registered gift deed dt.29.9.1988 and 30.9.1988. The said gift deed was, however, cancelled by another registered document dt.16.7.1998. It appears, the petitioner herein made an application on 14.6.2004 for effecting necessary changes in the property assessment register maintained by Municipal Corporation of Hyderabad (MCH). Accordingly, the property was mutated in favour of the petitioner. Subsequently, third respondent filed a petition on 29.4.2005 for cancellation of mutation/necessary entries in the property tax register stating that the gift deed based on which the petitioner obtained mutation was

subsequently cancelled. Second respondent, who is authorized officer under Hyderabad Municipal Corporation (Registry of the Transfer of Ownership of Properties in the Assessment Book) Rules, 1965, (hereafter called, the Rules) conducted enquiry after giving notice to the petitioner, and by impugned order dt.1.9.2005 cancelled the mutation in favour of the petitioner duly retaining the name of the third respondent.

Assailing the impugned order, learned counsel for the petitioner, Sri Abdul Nazib Khan, submits that in Muslim Law a gift, which is accepted and acted upon duly taking possession from the donor, cannot be cancelled. Secondly he would urge that the impugned order is vitiated by extraneous considerations, in that, second respondent passed orders in favour of third respondent under the influence of Hon'ble Minister for Information and Broadcasting, Government of Andhra Pradesh.

Learned Standing Counsel for the MCH brought to the notice of this Court the relevant Rules referred to hereinabove and submits that the petitioner has effective alternative remedy under Rule 5 of the Rules and that the second respondent passed orders after verifying registered cancellation deed and therefore the same is sustainable.

Rule 5 of the Rules enables an aggrieved person to prefer an appeal to the Government of Andhra Pradesh against any order passed by the Commissioner or an Officer authorized by him as and when necessary changes are effected in the assessment register. Therefore, it would not be proper for this Court to express any opinion on the merits of the case. Liberty is given to the petitioner to approach the Government of Andhra Pradesh and file appeal within a period of one week from today, and the Government is directed to consider the appeal and pass appropriate orders after issuing notice to the third respondent.

The Writ Petition with the above observations and directions is accordingly disposed of.

(V.V.S.RAO, J)

16.11.2005

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Note:CC in 3 days.

(B.O)

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